IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

O. O. C. J.

PARSI SUIT NO.12 OF 2005

Mrs.Farzin Kurush Patel. ...Plaintiff No.1

Vs.

Mr.Kurush Jimmy Patel. ...Plaintiff No.2

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Ms.F.D.Contractor for Plaintiff No.1

Mr. P.M.Rustomkhan for Plaintiff No.2.

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**CORAM : DR.D.Y.CHANDRACHUD, J.**

(Aided by a forewoman, two Gentlemen and one Lady)

March 4, 2005.

**ORAL JUDGMENT:**

1. Parties in the present suit have applied for divorce by mutual consent under Section 32B of the Parsi Marriage and Divorce Act, 1936. Parties are Parsi Zoroastrians and were married on 18th December 1989. They have stated before the Court that there are serious differences between them. On 5th November 2003, the First Plaintiff left the matrimonial home and has been residing separately since then at Bai Gamadia Hostel for Girls, Tardeo

Road, Mumbai-400 007. Parties have resided separately for over a year and have agreed to divorce by mutual consent.

2. The following issues were framed in the suit:

1. Whether Plaintiffs prove that they were married on 18th December 1989 at Mumbai according to Parsi Zoroastrian Rites and Customs ?

2. Whether the Plaintiffs prove they were not able to reconcile their differences?

3. Do the Plaintiffs prove that they have been living separately for over a year?

4. Do the Plaintiffs prove that there is no delay in filing the suit?

5. Do the Plaintiff prove that there is no connivance or coercion in filing this suit ?

6. What order? What costs ?

3. Four delegates have been present at the trial which constitutes a sufficient quorum under the provisions of Section 44 of the Act.

4. The delegates have answered the first five issues in the affirmative.

5. Though a view has been taken by F.I.Rebello, J. in **Cyrus Kersie Vandrevala and Kareena C.Vandrevala** (Suit No.15 of 2004, decided on 18th October 2004), that it is not necessary for the Court to consult the delegates in a suit under Section 32B for divorce by mutual consent the Court has been informed that a challenge is pending to the aforesaid order. In order to obviate any difficulty and by way of abundant caution, I have taken the view of the delegates so that the suit for divorce by mutual consent can be disposed of.

6. Both the Parties have stepped into the witness box and have deposed to the facts of their respective cases. On the basis of the evidence on the record, I am of the view that there is no reason why a decree for divorce by mutual consent should not be granted. Parties have been living separately for a period of over one year; the marriage has been solemnised under the provisions

of the Act; the averments in the plaint are true and I am satisfied that the consent of either party to the suit was not obtained by force or fraud.

7. In the circumstances, the suit shall stand decreed in terms of prayer clause (a). There shall be no order as to costs.

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